HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.15801 of 1998

6.7.2007

Between

L.Hari ..Petitioner

AND

A.P.S.R.T.C. represented by its Regional Manager, Karimnagar and others ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.15801 of 1998

The writ petition has been instituted by a Driver of the A.P.S.R.T.C. calling in question the orders passed by the Depot Manager on 4.9.1996 imposing the punishment of deferment of annual increment for two years which will have the effect of postponing the increments. The Appeal preferred against the said order is also rejected by the Regional Manager through his order dated 2.5.1997. The punishment came to be imposed as the bus driven by the writ petitioner was involved in a fatal accident on 17.10.1995 resulting in the death of a young person due to multiple injuries caused in the accident involving the said bus.

Sri K.Vasudeva Reddy, learned counsel for the writ petitioner would urge that the primary authority viz., the Depot Manager, Sircilla had not assigned any reasons as to why the explanation offered by the writ petitioner to the show cause notice proposing to impose the punishment is not acceptable. He asserts that failure to assign reasons is indicative of non application of mind by the primary authority and the fact that the appellate authority has supplied the reasons, will not cure the defects of the primary authority's order.

On the contrary, the learned Standing Counsel for the A.P.S.R.T.C. would contend that Regulation 8(4) read with Regulation 12 of the A.P.S.R.T.C. Employees (Classification, Control and Appeal) Regulations, 1967 makes it clear that when the punishment imposed is

considered and treated as a minor one, there is no necessity for conducting a detailed enquiry and the reason which is patent and visible on the face of the record for not accepting the explanation offered by the writ petitioner is the fact that the bus driven by the writ petitioner had been involved in a fatal accident leaving a corresponding obligation on the Corporation to make good the loss of life of the victim. Therefore, for the patent and obvious reasons, the explanation offered by the writ petitioner was found merit less by the primary authority and at any rate, the appellate authority having considered the entire matter, passed the orders assigning reasons as to why the explanation offered by the writ petitioner is not acceptable. It should be considered that the primary authority's order has merged with that of the appellate authority and therefore, the contention canvassed on behalf of the writ petitioner does not deserve consideration.

It is not in dispute that the bus driven by the writ petitioner had been involved in a fatal accident and it has resulted in the death of a young person due to multiple injuries sustained by him. It therefore goes without saying that such a cause has undoubtedly made the Corporation liable to make good the loss of the victim and the fact remains that the writ petitioner was the one who was then driving the vehicle in question. If he had not been able to demonstrate all such measures he had taken for completely avoiding any such accident, the element of misconduct on his part becomes apparent on the face of the record and therefore, he deserves to be appropriately penalized. The very fact that the primary authority had considered the matter and imposed a minor punishment but not a major punishment, itself indicates the rational approach and application of mind by the primary authority. The defect of primary authority in not assigning reasons to a

certain extent, is said to have been cured from the fact that the appellate authority has assigned reasons as to why the explanation offered by the writ petitioner was not found satisfactory. In theory, an Appeal is a continuation of the original proceeding. I therefore do not find any merit in the contention canvassed on behalf of the petitioner and I do not consider it either necessary or proper to set aside the order of punishment imposed against the writ petitioner and remand the matter for reconsideration of the entire issue at this distant point of time.

With these reasons, the writ petition is dismissed, but however, without costs.

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NOOTY RAMAMOHANA RAO.J.

6.7.2007
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